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Filing date: **06/02/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058412
Party	Plaintiff Spartan Brands, Inc.
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Submission	Other Motions/Papers
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Date	06/02/2014
Attachments	Cancellation No. 92058412 - Opposition To Respondent's Second Motion For An Extension Of Time.PDF(650672 bytes)

SPARTAN BRANDS, INC.

Petitioner,

v.

RANDY APPELL,

Respondent.

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)
) Cancellation No. 92058412
)
) Registration No. 4,403,243
)
) Mark: ICEDC
)
)
) Registration Date: September 17, 2013
)
)

Petitioner, Spartan Brands, Inc. (“Petitioner”) hereby objects to Respondent’s motion for an extension of time to answer the Petition for Cancellation and Respondent’s request to stay Petitioner’s Motion for Default Judgment. Respondent requests the extension on the purported grounds that it needs more time to seek counsel. Petitioner opposes Respondent’s motion since the Board has already provided adequate time to answer the Petition for Cancellation.

On January 27th, 2014, Respondent requested the Board extend its time to answer the petition to cancel. The reason for Respondent's request, as stated by Respondent, was his need to retain counsel to assist him in the proceeding. The Board granted Respondent's request by extending its time to answer by two months, until March 28th 2014.

On April 11th, since an answer was not filed, Petitioner moved for a default judgment.

On April 30th, after having the original forty days it had to retain counsel and answer the Petition for Cancellation and the fifty-six day extension of time granted by the Board to retain counsel and file an answer, Respondent requested an additional two months for which to do the same thing – retain counsel and answer the Petition for Cancellation.

Respondent purportedly needs one hundred and sixty days (more than five months) to retain counsel and respond to a Petition for Cancellation alleging abandonment based on non-use. On January 27th, when Respondent initially requested a ninety day extension of time, the Board implicitly determined that ninety days was excessive and granted a fifty-six day extension. Now Respondent is requesting even more than the original ninety day request, an amount already determined unnecessary and excessive.

Respondent has ignored the Board's recommendation to engage appropriate counsel and has accepted the risks and penalties of its inaction. The Respondent is simply delaying this proceeding and attempting to avoid its consequences.

For the reasons set forth herein, Respondent's motion should be denied and Petitioner's Motion for Default Judgment should be promptly granted.

Dated: June 2, 2014

Tarter Krinsky & Drogin LLP

By: /s/ Philip Braginsky
Philip Braginsky

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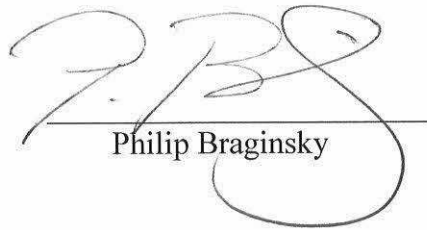
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a true and correct copy of the foregoing petitioner's Spartan Inc.'s Opposition To Respondent's Second Motion For An Extension Of Time was served on Respondent, by first class mail, postage prepaid, addressed to:

Randy Appell
11 Colgate Lane
Woodbury, New York 11797

Dated: June 2, 2014



Philip Braginsky